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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/282,156	03/31/1999	SAM E. KINNEY JR.	046700-5003	8244

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EXAMINER

KYLE, CHARLES R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/282,156

Applicant(s)

KINNEY ET AL.

Examiner

Charles R Kyle

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 65,69 and 75-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 65,69 and 75-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11 .                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 65, 69, and 75-83** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Effective Bid Pricing for Unit Price Contracts*, Engineering Economist, Summer 1994, hereinafter, *Pricing* in view of *Gaus et al.*

**With respect to Claim 65**, it is the system form of method claim 69 and is rejected in a like manner. See the discussion of Claim 69 below.

**With respect to Claim 69**, *Pricing* discloses a method of participating in an auction between a plurality of potential bidders (page 294, paragraph 1), the plurality of potential bidders competing for a lot having at least one product (page 293, Abstract), comprising the steps of:

(a) receiving bid information from a bidder for said lot (page 293, paragraph 1);

(b) generating a transformed bid using at least said bid information (page 293, Abstract; page 295, "The General Bid-Pricing Model"); and

(c) producing transformed bid information for an auction, said transformed bid information enabling said auction to generate a relative comparison of bids originally defined in one or more bidder-specific contexts on a common competitive basis (page 294, paragraph 1);

wherein step (b) comprises the step of generating a net present value bid (page 295, paragraphs 1-5) using a predefined discount rate structure (page 298, paragraph 1) and received multi-segment bidding parameters, said net present value bid representing a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using said predefined discount rate structure (page 295, paragraphs 1-4).

*Pricing* does not specifically disclose an electronic auction or the transmission of bid information to an auction server. *Gaus* discloses these features at Summary of the Invention and Col.3, line 52 to Col. 4, line 21 respectively. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the electronic method of an auction as disclosed by *Gaus* to implement the transformed bid steps of *Pricing* because this would have provided comparable bids to the auction users as specifically disclosed by *Pricing* at page 13, fourth full paragraph to page 14, Conclusion.

Note that references to net present value, rate of return and discount rate are considered equivalent because they are components of the common concept of calculating an adjusted bid

**With respect to Claim 75**, see the discussion of Claim 69 above and *Gaus* further discloses a computer program product having computer readable program code to implement the methods of an auction at Col. 4, line 11 to Col. 6, line 35.

**Concerning Claim 76**, see the discussion of Claim 69 above.

**With respect to Claim 77**, *Pricing* discloses receiving multi-segment bidding parameters, said multi-segment bidding parameters defining a pattern of payments over a plurality of contract term segments at page 295, paragraphs 1-2.

**With respect to Claim 78**, *Pricing* discloses receiving a unit bid (Title), a contract length (page 293, paragraph 2; page 295, paragraph 2), a contract quantity or quantities (page 296, paragraph 1), and price discount values for a plurality of contract term segments (page 293, paragraph 2; page 295, paragraphs 1-5).

**With respect to Claim 79**, *Pricing* discloses receiving price values for each of the plurality of contract term segments at page 295, paragraphs 3-5.

**With respect to Claims 80-83**, they are the system form of Claims 76-79 and are rejected in a like manner.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shawn Tully, Going, Going, Gone!, March 2000 Business 2.0

D. Donoghue, D. Haarmeyer, S. Parker. The First Wave, Independent Energy, June 1998, pages 1-6 of supplied reference.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CRK

crk

September 4, 2002

  
VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3800